

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DOMINION CONSTRUCTION &)	
ARCHITECTURAL SERVICES, INC.,)	
)	
Plaintiff,)	Case No. 3:23-cv-00680
)	
v.)	Chief Judge Waverly D. Crenshaw, Jr.
)	Magistrate Judge Barbara D. Holmes
THOMAS DANIEL MAXWELL d/b/a)	
MAXWELL’S WELDING,)	
)	
Defendant.)	

ORDER DENYING MOTION FOR DEFAULT JUDGMENT

Pending is Plaintiff’s Request for Entry of Default against Thomas Daniel Maxwell pursuant to Federal Rule of Civil Procedure 55(a) (Doc. No. 10). For the following reasons, Plaintiff’s Motion is **DENIED** without prejudice.

Pursuant to Local Rule 55.01,

Motions for entry of default under Fed. R. Civ. P. 55(a) must be accompanied by an unsworn declaration under penalty of perjury under 28 U.S.C. § 1746 verifying, among other things, (i) proof of service; (ii) the opposing party’s failure to plead or otherwise defend; (iii) *if the opposing party is an individual, that the opposing party is not a minor or incompetent person*; and (iv) if the opposing party is an individual, that the opposing party is not in the military service, as required by 50 U.S.C. § 3931(b)(1). Evidence from the Defense Manpower Data Center, or other reliable source, confirming that the opposing party is not in the military service must be appended to the unsworn declaration.

L.R. 55.01 (emphasis added). Plaintiff submits the Declaration of C. Gavin Shepherd in support of its Motion. (Doc. No. 10-1 at PageID #28). Plaintiff has satisfied all prongs of Local Rule 55.01 except for 55.01(iii). Mr. Shepherd’s Declaration does not provide any information

regarding the age or competency of Defendant Maxwell. Accordingly, Plaintiff's Request for Entry of Default (Doc. No. 10) is **DENIED** without prejudice to refile with additional information to satisfy all elements of Local Rule 55.01.

s/ Lynda M. Hill
Lynda M. Hill
Clerk of Court